

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1168

AN ACT

AMENDING SECTIONS 38-745, 38-747, 38-760, 38-762, 38-763 AND 38-764, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-775; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-745, Arizona Revised Statutes, is amended to
3 read:

4 38-745. Credit for military service

5 A. An active member of ASRS or a member who is receiving benefits
6 pursuant to section 38-797.07 may purchase credited service in ASRS for
7 active military service if both of the following apply:

8 1. The member was honorably separated from the military service.

9 2. The member submits a copy of the member's military service record
10 (DD-214) or its equivalent with the member's application for military service
11 credit.

12 B. The cost to purchase military service credit is an amount equal to
13 the present value of the additional benefit that is derived from the
14 purchased credited service using the actuarial assumptions that are approved
15 by the board.

16 C. An active member of ASRS who is called to active military service
17 may receive credited service for not more than sixty months of active
18 military service, except as provided by the uniformed services employment and
19 reemployment rights act (38 United States Code section 4312(c)). The
20 member's employer shall make employer contributions and member contributions
21 for the member if the member meets the following requirements:

22 1. Was an active member of ASRS on the day before the member began
23 active military service.

24 2. Is a member of the Arizona national guard or is a member of the
25 reserves of any military establishment of the United States.

26 3. Volunteers or is ordered into active military service of the United
27 States as part of a presidential call-up.

28 4. Is honorably separated from active military service and returns to
29 employment for the same employer from which the member left for active
30 military service within ninety days after the date active military service is
31 terminated, is hospitalized as a result of military service and returns to
32 employment for the same employer from which the member left for active
33 military service within ninety days after release from service related
34 hospitalization or dies as a result of the military service.

35 D. Contributions made pursuant to subsection C of this section shall
36 be for the period of time beginning on the date the member began active
37 military service and ending on one of the following dates:

38 1. The date the member is separated from active military service.

39 2. The date the member is released from service related
40 hospitalization or one year after initiation of service related
41 hospitalization, whichever date is earlier.

42 3. The date the member dies as a result of active military service.

43 E. Notwithstanding any other law, on payment of the contributions made
44 pursuant to subsection C of this section, the member shall be credited with

1 service for retirement purposes for the period of time of active military
2 service of not more than sixty months.

3 F. The employer shall make contributions pursuant to subsection C of
4 this section ~~based on the salary being received by the member immediately~~
5 ~~before the member volunteered or was ordered into active military service~~ AS
6 FOLLOWS:

7 1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT A MEMBER
8 WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO
9 ACTIVE MILITARY SERVICE.

10 2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE A MEMBER'S RATE OF
11 COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO ACTIVE MILITARY
12 SERVICE, THE EMPLOYER SHALL MAKE CONTRIBUTIONS BASED ON THE MEMBER'S AVERAGE
13 RATE OF COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE
14 PERIOD OF ACTIVE MILITARY SERVICE.

15 3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING
16 ORDERED INTO ACTIVE MILITARY SERVICE, THE EMPLOYER SHALL MAKE CONTRIBUTIONS
17 BASED ON THE EMPLOYMENT PERIOD IMMEDIATELY PRECEDING THE PERIOD OF ACTIVE
18 MILITARY SERVICE.

19 4. EMPLOYER CONTRIBUTIONS SHALL BE MADE in a lump sum and without
20 penalty when the member returns to employment or on receipt of the member's
21 death certificate. If a member suffers a service related death, the employer
22 shall make the employer and member contributions up to and including the date
23 of the member's death. Death benefits shall be calculated as prescribed by
24 law.

25 G. In computing the length of total credited service of a member for
26 the purpose of determining retirement benefits or eligibility, the period of
27 military service, as prescribed by this section, shall be included.

28 H. Notwithstanding any other law, the member is not required to
29 reimburse the member's employer or ASRS for any contribution made pursuant to
30 subsection C of this section.

31 I. In addition to, but not in duplication of, the provisions of
32 subsection C OF THIS SECTION, contributions, benefits and credited service
33 provided pursuant to this section shall be provided in accordance with
34 section 414(u) of the internal revenue code.

35 Sec. 2. Section 38-747, Arizona Revised Statutes, is amended to read:

36 38-747. Purchase of credited service; payment; limitations;
37 definitions

38 A. A member who purchases credited service pursuant to section 38-738,
39 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

40 1. Make payments directly to ASRS as provided in subsection H of this
41 section.

42 2. Elect to have the member's employer make payments as provided in
43 subsection B of this section.

1 B. A member may elect to have the member's employer make payments for
2 all or any portion of the amounts payable for the member's purchase of
3 credited service pursuant to the sections prescribed in subsection A of this
4 section through a salary reduction program in accordance with the following:

5 1. The amounts paid pursuant to a salary reduction program are in lieu
6 of contributions by the electing member. The electing member's salary or
7 other compensation shall be reduced by the amount paid by the employer
8 pursuant to this subsection. For the purposes of this paragraph, "other
9 compensation" includes a member's termination pay.

10 2. The member shall make an election pursuant to this subsection at
11 any time on or after the date the member elects to purchase credited service
12 pursuant to the sections prescribed in subsection A of this section and
13 before the member's termination of employment. The election shall specify
14 the number of payroll periods that deductions will be made from the member's
15 compensation and the dollar amount of deductions for each payroll period
16 during the specified number of payroll periods. In the case of an election
17 to utilize all or any part of the member's termination pay to purchase
18 credited service, the member's election shall be made at least three full
19 calendar months before the date of the member's termination of employment and
20 entitlement to receive the termination pay. After an election is made
21 pursuant to this subsection, the election is binding on and irrevocable for
22 the member and the member's employer during the member's remaining period of
23 current employment. After a member makes an irrevocable election pursuant to
24 this subsection, the member does not have the option of choosing to receive
25 the contributed amounts directly. For the purposes of this paragraph,
26 "termination pay" means any lump sum that is paid at the member's termination
27 of employment for accrued vacation, sick leave or overtime pay.

28 3. A member who makes an irrevocable election pursuant to this
29 subsection to have the member's employer make payments for less than all of
30 the amounts payable for the member's purchase of credited service may
31 irrevocably elect to have the member's employer make payments for all or any
32 portion of the remaining amounts payable for the member's purchase of
33 credited service. A member who makes one or more irrevocable elections
34 pursuant to this subsection may also make other contributions to ASRS
35 pursuant to subsection H of this section to the extent of any remaining
36 amounts payable for which the member has not made an election pursuant to
37 this subsection. An additional election or contribution with respect to a
38 portion of the amounts payable for the member's purchase of credited service
39 does not alter, amend or revoke an irrevocable election already made pursuant
40 to this subsection for any other portion of the amounts payable for the
41 member's purchase of credited service.

42 4. If on termination of the member's employment with an ASRS employer
43 all amounts have not been paid to ASRS pursuant to the member's irrevocable
44 election pursuant to this subsection, the member may pay ASRS, within thirty
45 days after the member's termination of employment and subject to other

1 limitations prescribed in this section, all or any portion of the unpaid
2 amounts as provided in subsection H of this section. These payments do not
3 alter, amend or revoke any irrevocable election already made pursuant to this
4 subsection with respect to any amount to be paid by the member's employer
5 while the member is employed by the member's employer.

6 5. Amounts paid by an employer pursuant to this subsection shall be
7 treated as employer contributions for the purpose of determining tax
8 treatment under the internal revenue code. The effective date of employer
9 payments pursuant to this subsection shall not be before the date ASRS
10 receives notification from the United States internal revenue service that
11 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
12 by an employer pursuant to this subsection will not be included in the
13 member's gross income for income tax purposes until those amounts are
14 distributed by refund or retirement benefit payments.

15 6. Unless otherwise provided, member contributions paid by an employer
16 pursuant to this subsection are treated for all other purposes under ASRS in
17 the same manner and to the same extent as member contributions that are not
18 paid by an employer pursuant to this subsection. ASRS shall not grant
19 credited service for contributions made pursuant to this subsection until
20 those contributions are received by ASRS. ASRS may assess interest or
21 administrative charges attributable to any salary reduction election made
22 pursuant to this subsection. The interest or administrative charges shall be
23 added to the amount of contributions that is made to ASRS by the member each
24 payroll period and that is paid by the member's employer. The interest or
25 administrative charges shall not be treated as member contributions for any
26 purposes under this article and a member or a member's beneficiary does not
27 have a right to the return of the interest or administrative charges pursuant
28 to any other provision of this article. Interest assessed pursuant to this
29 subsection shall be at the rate specified by the board pursuant to section
30 38-711, paragraph 2.

31 7. If a member transfers employment from one participating employer
32 with which the member has made an irrevocable election pursuant to this
33 subsection to another participating employer, the member and the successor
34 participating employer shall complete the terms of the irrevocable election
35 that the member made with the original participating employer.

36 C. A member who elects before July 1, 1999 to receive retirement
37 benefits based on section 38-771, subsection C, paragraph 2 or a member who
38 elects to make contributions to ASRS pursuant to section 38-771.01,
39 subsection F, paragraph 4 shall either make the member's additional
40 contributions required pursuant to section 38-771, subsection E or allowed
41 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as
42 provided in subsection H of this section or shall elect to have the member's
43 employer make payments for those additional contributions as provided in
44 subsection D of this section. A member who elected to be covered or who was
45 deemed to be covered by section 38-771 on or before December 31, 1995 or who

1 elects to make member contributions pursuant to section 38-771.01, subsection
2 F, paragraph 3 is deemed to have made an irrevocable election pursuant to
3 subsection D of this section to make the member's contributions to ASRS that
4 are required by section 38-771, subsection D or allowed by section 38-771.01,
5 subsection F, paragraph 3.

6 D. Any member contributions that are required by section 38-771,
7 subsection D or that are allowed pursuant to section 38-771.01, subsection F,
8 paragraph 3 are deemed to be made by the member to ASRS through a salary
9 reduction program in accordance with the following:

10 1. A member may make member contributions pursuant to section 38-771,
11 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary
12 reduction program elected pursuant to this subsection. If a member makes an
13 irrevocable election pursuant to this subsection before July 1, 1999 to have
14 the member's employer make payments for additional contributions pursuant to
15 section 38-771, subsection E, the election continues in effect from and after
16 June 30, 1999 and shall not be revoked, amended or altered by any election
17 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant
18 to a salary reduction program are in lieu of contributions by the electing
19 member. The member's salary or other compensation shall be reduced by the
20 amount paid by the employer pursuant to this subsection.

21 2. Before a member's termination of employment, the member may make an
22 election pursuant to this subsection at any time after the date the member
23 elects to receive retirement benefits based on section 38-771, subsection C,
24 paragraph 2 but before July 1, 1999 or at any time after the member elects to
25 make member contributions pursuant to section 38-771.01, subsection F,
26 paragraph 4. The election shall specify the number of payroll periods that
27 deductions will be made from the member's compensation and the dollar amount
28 of deductions for each payroll period during the specified number of payroll
29 periods. After an election is made pursuant to this subsection, the election
30 is binding on and irrevocable for the member and the member's employer during
31 the member's remaining period of employment.

32 3. After a member makes or is deemed to have made an irrevocable
33 election pursuant to this subsection, the member does not have the option of
34 choosing to receive the contributed amounts directly. A member who makes an
35 irrevocable election pursuant to this subsection to have the member's
36 employer make payments for less than all of the amounts payable for the
37 member's additional contributions allowed by section 38-771.01, subsection F,
38 paragraph 4 may irrevocably elect to have the member's employer make payments
39 for all or any portion of the remaining amounts payable for the member's
40 additional contributions. A member who makes one or more irrevocable
41 elections pursuant to this subsection may also make other contributions to
42 ASRS pursuant to section 38-771.01, subsection F, paragraph 4 or pursuant to
43 subsection H of this section to the extent of any remaining amounts payable
44 for which the member has not made an election pursuant to this subsection.
45 An additional election or contribution with respect to a portion of the

1 amounts payable for the member's additional contributions pursuant to section
2 38-771.01, subsection F, paragraph 4 does not alter, amend or revoke an
3 irrevocable election already made pursuant to this subsection for any other
4 portion of the amounts payable for the member's additional contributions
5 allowed by section 38-771.01, subsection F, paragraph 4.

6 4. If on termination of the member's employment all amounts have not
7 been paid to ASRS pursuant to the member's irrevocable election pursuant to
8 this subsection, the member may pay ASRS, within thirty days after the
9 member's termination of employment and subject to other limitations
10 prescribed in this section, all or any portion of the unpaid amounts as
11 provided in subsection H of this section. These payments do not alter, amend
12 or revoke any irrevocable election already made pursuant to this subsection
13 with respect to any amount to be paid by the member's employer while the
14 member is employed by the member's employer.

15 5. Amounts paid by an employer pursuant to this subsection shall be
16 treated as employer contributions for the purpose of determining tax
17 treatment under the internal revenue code. The effective date of employer
18 payments pursuant to this subsection shall not be before the date ASRS
19 receives notification from the United States internal revenue service that
20 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
21 by an employer pursuant to this subsection will not be included in the
22 member's gross income for income tax purposes until those amounts are
23 distributed by refund or retirement benefit payments.

24 6. Unless otherwise provided, member contributions paid by an employer
25 pursuant to this subsection are treated for all other purposes under ASRS in
26 the same manner and to the same extent as member contributions that are not
27 paid by an employer pursuant to this subsection.

28 7. If a member transfers employment from one participating employer
29 with which the member has made an irrevocable election pursuant to this
30 subsection to another participating employer, the member and the successor
31 participating employer shall complete the terms of the irrevocable election
32 that the member made with the original participating employer.

33 E. The following limits apply to contributions to ASRS:

34 1. Except to the extent paragraphs 2 and 3 of this subsection apply to
35 certain contributions made by a member to ASRS and to the extent permitted
36 under section 414(v) of the internal revenue code, if applicable, in any one
37 limitation year, the annual additions contributed or allocated to ASRS for or
38 on behalf of a member shall not exceed the lesser of either:

39 (a) Forty thousand dollars or a larger amount that is prescribed by
40 the board and that is due to any cost of living adjustment announced by the
41 United States secretary of the treasury pursuant to section 415(d) of the
42 internal revenue code. The board shall increase the amount prescribed by
43 this subdivision as of the effective date of the increase announced by the
44 United States secretary of the treasury.

1 (b) One hundred per cent of the member's compensation for the
2 limitation year. The compensation limit prescribed in this subdivision does
3 not apply to any contribution to ASRS for medical benefits after a member's
4 separation from service, within the meaning prescribed in section 401(h) or
5 419A(f)(2) of the internal revenue code, that is otherwise treated as an
6 annual addition.

7 2. Unless paragraph 4 of this subsection applies, for plan years
8 beginning on or after July 1, 1998, in any one limitation year, the annual
9 additions credited to ASRS for or on behalf of a member who makes
10 contributions to ASRS to purchase credited service pursuant to section
11 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable
12 election has not been made pursuant to subsection B of this section shall not
13 exceed the greater of either:

14 (a) The requirements of section 38-769. For the purposes of applying
15 the limits prescribed in section 38-769 under this subdivision, the accrued
16 benefit derived from the contributions shall be treated as an annual benefit
17 and the reduced limit for certain early retirement in section 38-769,
18 subsection C, paragraph 2 does not apply.

19 (b) Except as provided in paragraph 3 of this subsection, the
20 requirements of paragraph 1 of this subsection. The contributions shall be
21 treated as annual additions and any of the member's other annual additions
22 for the limitation year shall be taken into account. For the purposes of
23 applying the requirements of paragraph 1 of this subsection under this
24 subdivision, the percentage of compensation limit in paragraph 1, subdivision
25 (b) of this paragraph does not apply.

26 3. For plan years beginning on or after July 1, 1998, the requirements
27 of paragraph 1 of this subsection shall not be applied to reduce the amount
28 of credited service that may be purchased by an eligible member pursuant to
29 section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the
30 amount of credited service allowed to be purchased pursuant to those sections
31 on August 5, 1997 without the application of any of the limits prescribed in
32 this section or section 415 of the internal revenue code. For the purposes
33 of this paragraph, "eligible member" means a person who first becomes a
34 member of ASRS before July 1, 1999.

35 4. Member contributions to ASRS to purchase credited service pursuant
36 to section 38-743, 38-744 or 38-922 shall not be made by a member if
37 recognition of that service would cause a member to receive a retirement
38 benefit for the same service from ASRS and one or more other retirement
39 plans. This paragraph does not apply to either of the following:

40 (a) Contributions made by an eligible member as defined in paragraph 3
41 of this subsection, except that any service purchase by an eligible member is
42 subject to any other limitations, including limitations on duplicative
43 service purchase, otherwise provided in this article.

1 (b) Any member contributions with respect to which an irrevocable
2 election has been made by a member pursuant to subsection B of this section,
3 except that the service purchase is subject to any other limitations,
4 including limitations on duplicative service purchase, otherwise provided in
5 this article.

6 F. If a member's contributions are subject to the limitations of
7 subsection E of this section, the contributions shall be treated as being
8 made to a separate defined contribution plan. If the member's contributions
9 exceed the limits prescribed in subsection E of this section when taking into
10 account other member and employer contributions to ASRS on behalf of the
11 member for the limitation year, the amount to be paid by the member shall be
12 reduced to not exceed the limits prescribed in subsection E of this section
13 and the remaining amount shall be carried forward to the next limitation
14 year, unless the limits are exceeded in the next limitation year. If the
15 limits are exceeded in the next limitation year, the procedure prescribed by
16 this subsection shall be repeated until all payments have been made.

17 G. If, after the application of subsection F of this section, the
18 annual additions on behalf of a member exceed the limitations prescribed in
19 subsection E of this section, ASRS shall dispose of excess amounts by either
20 of the following:

21 1. Returning to the member any contributions that are made by the
22 member and that are nondeductible under the internal revenue code.

23 2. Holding the amounts in a suspense account established pursuant to
24 subsection L of this section and allocating the amounts as either member or
25 employer contributions for the benefit of the member in the next limitation
26 year and before any further member or employer contributions are made that
27 would constitute annual additions made to a defined contribution plan
28 pursuant to section 415 of the internal revenue code. ASRS shall allocate
29 contributions as prescribed in this section, and the amount allocated shall
30 reduce the amount of the member or employer contributions for the limitation
31 year in which the allocation is made.

32 H. To the extent that a payment under this subsection does not alter,
33 amend or revoke any one or more currently effective irrevocable elections
34 made by the member pursuant to subsection B or D of this section, the board
35 may accept contributions made pursuant to section 38-771 or member
36 contributions for the payment for credited service purchases pursuant to
37 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions
38 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or in
39 part, by any one or a combination of the following methods:

40 1. In lump sum payments.

41 2. Subject to the limitations prescribed in sections 401(a)(31) and
42 402(c) of the internal revenue code and subsection J of this section,
43 accepting a direct rollover of or a contribution by a member of an eligible
44 rollover distribution from one or more:

1 (a) Retirement programs that are qualified under section 401(a) or
2 403(a) of the internal revenue code.

3 (b) Annuity contracts described in section 403(b) of the internal
4 revenue code.

5 (c) Eligible deferred compensation plans described in section 457(b)
6 of the internal revenue code that are maintained by a state, a political
7 subdivision of a state or any agency or instrumentality of a state or a
8 political subdivision of a state.

9 3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
10 of the internal revenue code, accepting from a member a rollover contribution
11 of that portion of a distribution from an individual retirement account or
12 individual retirement annuity described in section 408(a) or 408(b) of the
13 internal revenue code that is eligible to be rolled over and would otherwise
14 be includable as gross income.

15 4. Providing by rule that the contributions may be made in installment
16 payments over a period of time.

17 I. To the extent that a payment under this subsection does not alter,
18 amend or revoke any one or more currently effective irrevocable elections
19 made by a member pursuant to subsection B or D of this section, the board may
20 accept a direct trustee-to-trustee transfer from retirement programs that are
21 qualified under section 401(a) or 403(a) of the internal revenue code, an
22 annuity contract described in section 403(b) of the internal revenue code or
23 an eligible deferred compensation plan described in section 457(b) of the
24 internal revenue code for the payment for credited service purchases
25 pursuant to section 38-742, 38-743, 38-744, 38-745 or 38-922. If a direct
26 trustee-to-trustee transfer is from a retirement program that is qualified
27 under section 401(a) of the internal revenue code and that includes a cash or
28 deferred arrangement described in section 401(k) of the internal revenue
29 code, the member on whose behalf the transfer was made is not eligible to
30 retire under section 38-764, subsection ~~4~~ I before the date the member
31 attains fifty-nine and one-half years of age.

32 J. ASRS shall separately account for all amounts rolled over or
33 directly transferred to ASRS.

34 K. ASRS shall not grant credited service under section 38-738, 38-742,
35 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of
36 this section until the contributions are received by ASRS. ASRS may assess
37 interest or administrative charges attributable to any installment payment
38 made pursuant to subsection H, paragraph 4 of this section to purchase
39 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or
40 38-922. The interest or administrative charges shall be added to the amount
41 of contributions made to ASRS by the member. The interest or administrative
42 charges shall not be treated as member contributions for any purposes under
43 this article, and a member or a member's beneficiary does not have a right to
44 the return of the interest or administrative charges pursuant to any other
45 provision of this article. Interest assessed pursuant to this subsection

1 shall be at the rate specified by the board pursuant to section 38-711,
2 paragraph 2.

3 L. ASRS shall establish a suspense account that conforms with 26 Code
4 of Federal Regulations section 1.415-6(b)(6) regarding excess annual
5 additions.

6 M. If the member retires before all payments are made pursuant to this
7 section, ASRS shall calculate the member's benefits based only on the
8 payments actually made.

9 N. On satisfaction of the requirements of this section, ASRS shall
10 adjust the member's credited service history and add any additional service
11 credits acquired.

12 O. Annual additions on behalf of a member in any limitation year shall
13 be the sum of:

14 1. The amount of the member contributions made to ASRS to purchase
15 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922
16 and with respect to which an irrevocable election made pursuant to subsection
17 B of this section is not in effect.

18 2. The amount of member and employer contributions made to ASRS on
19 behalf of a member who elected or was deemed to have elected to receive
20 retirement benefits pursuant to section 38-771 or who is entitled to benefits
21 pursuant to section 38-771.01, except that, other than as provided in
22 subsection P of this section, corrective contributions shall be considered
23 annual additions for the limitation years to which the contributions relate
24 and interest and gains shall not be considered as annual additions for the
25 purpose of any limitation prescribed in this article or in section 415 of the
26 internal revenue code. If the corrective contributions exceed the limit on
27 annual additions for a limitation year prior to the limitation year in which
28 the corrective contributions are contributed by the employer to ASRS, the
29 retirement benefit attributable to the excess corrective contributions shall
30 be treated as an excess benefit and shall be payable to the member as any
31 other excess benefit is payable pursuant to section 38-774, and the employer
32 shall pay the excess corrective contributions to the separate unfunded
33 governmental excess benefit arrangement administered by the board pursuant to
34 section 38-774.

35 3. Any member or employer contributions made to ASRS or any other plan
36 that are treated as being made to a defined contribution plan maintained by
37 an employer of the member.

38 4. Any forfeitures, including any income attributable to forfeitures,
39 allocated for or on behalf of a member of ASRS or any other plan that are
40 treated as being allocated under a defined contribution plan maintained by an
41 employer of the member.

42 P. To the extent any portion of the subject benefits, if treated as
43 subject to the benefit limitations of section 415(b) of the internal revenue
44 code, exceed the applicable limitation on benefits pursuant to section 38-769
45 for the form of distribution, a percentage of corrective contributions and

1 interest and gains shall be treated as annual additions for the limitation
2 year in which contributed by the employer to ASRS. This percentage of
3 corrective contributions and interest and gains shall be equal to the
4 percentage determined by dividing the subject benefits that exceed the
5 limitation on benefits pursuant to section 38-769 by the subject benefits.
6 If the corrective contributions and interest and gains that are treated as
7 annual additions for the limitation year in which the corrective
8 contributions and interest and gains are contributed by the employer to ASRS
9 exceed the limit on annual additions for the limitation year, the retirement
10 benefit attributable to the excess shall be treated as an excess benefit and
11 shall be payable to the member as any other excess benefit is payable
12 pursuant to section 38-774, and the employer shall pay the excess to the
13 separate unfunded governmental excess benefit arrangement administered by the
14 board pursuant to section 38-774.

15 Q. Subsection O of this section shall be construed and interpreted in
16 accordance with 26 Code of Federal Regulations section 1.415-6 to the extent
17 that section is applicable.

18 R. For the purposes of this section:

19 1. "Compensation" has the same meaning prescribed in section 38-769.

20 2. "Corrective contributions" means any contributions that are paid by
21 an employer pursuant to section 38-771.01, subsection C, paragraph 3 and that
22 are attributable to employer contributions that should have been made for
23 prior limitation years.

24 3. "Defined contribution plan" has the same meaning prescribed in
25 section 38-769.

26 4. "Interest and gains" means employer contributions to ASRS pursuant
27 to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are
28 attributable to earnings and supplemental credits that would have been earned
29 or added to a member's annuity payment.

30 5. "Limitation year" has the same meaning prescribed in section
31 38-769.

32 6. "Participating employer" means an employer that participates in
33 ASRS.

34 7. "Subject benefits" means the retirement benefit received by a
35 member pursuant to section 38-771.01 minus the sum of the portion of such
36 retirement benefit attributable to contributions that were made by or on
37 behalf of the member to the defined contribution program administered by ASRS
38 for periods before July 1, 1981 and contributions that were made by the
39 member after June 30, 1981 and that were not picked up as provided in section
40 414(h)(2) of the internal revenue code.

41 Sec. 3. Section 38-760, Arizona Revised Statutes, is amended to read:

42 38-760. Optional forms of retirement benefits

43 A. On retirement, members may elect an optional form of retirement
44 benefit as provided in this section.

1 B. The optional retirement benefits available under this section
2 include the following:

3 1. Joint and survivor annuity in a reduced amount payable to the
4 retiring member during life, with the provisions that after the member's
5 death all, two-thirds or one-half of the retirement income, as the member
6 elects, shall be continued during the lifetime of the contingent annuitant
7 designated by the retiring member subject to the restrictions prescribed in
8 section 38-764. The amount of retirement income shall be the actuarial
9 equivalent of the retirement income to which the member would be entitled
10 under normal or early retirement. The election in a manner prescribed by the
11 board shall name the contingent annuitant. The election may be revoked at
12 any time before the member's effective date of retirement. At any time after
13 benefits have commenced, the member may name a different contingent annuitant
14 or rescind the election by written notice to the board as follows:

15 (a) If a different contingent annuitant is named, the annuity of the
16 member under the same joint and survivor annuity option previously elected
17 shall be adjusted to the actuarial equivalent of the original annuity, based
18 on the age of the new contingent annuitant. The adjustment shall include all
19 ~~post-retirement~~ POSTRETIREMENT increases in retirement income that are
20 authorized by law after the member's date of retirement. Payment of this
21 adjusted annuity shall continue under the provisions of the option previously
22 elected by the member.

23 (b) If the member rescinds the election, the member shall thereafter
24 receive a straight life annuity equal to what the member would otherwise be
25 entitled to receive if the member had not elected the joint and survivor
26 annuity option, including all ~~post-retirement~~ POSTRETIREMENT increases in
27 retirement income that are authorized by law after the date of retirement.
28 The increased payment shall continue during the remainder of the member's
29 lifetime.

30 (c) If the member reverts to a straight life annuity pursuant to
31 subdivision (b) OF THIS PARAGRAPH, the member may name a new contingent
32 annuitant subject to the same restrictions prescribed in subdivision (a) OF
33 THIS PARAGRAPH.

34 2. A period certain and life annuity actuarially reduced with payments
35 for five, ten or fifteen years that are not dependent on the continued
36 lifetime of the member but whose payments continue for the member's lifetime
37 beyond the five, ten or fifteen year period. AT THE TIME OF ELECTING THIS
38 OPTION THE MEMBER SHALL NAME A PERIOD CERTAIN BENEFICIARY OR BENEFICIARIES
39 WHO ARE ENTITLED TO RECEIVE THE PAYMENTS FOR ANY PORTION OF THE PERIOD
40 CERTAIN BEYOND THE LIFETIME OF THE MEMBER. THE MEMBER MAY NAME A DIFFERENT
41 BENEFICIARY AT ANY TIME. IF NO BENEFICIARY SURVIVES THE MEMBER ANY REMAINING
42 PAYMENTS ARE THE PROPERTY OF THE MEMBER'S ESTATE. At any time, a member who
43 retires after ~~the effective date of this amendment to this section~~ AUGUST 9,
44 2001 may rescind the election of a period certain and life annuity. If the
45 member rescinds the election of a period certain and life annuity, the member

1 shall thereafter receive a straight life annuity equal to what the member
2 would otherwise be entitled to receive if the member had not elected the
3 period certain and life annuity option, including all postretirement
4 increases in retirement income that are authorized by law after the date of
5 retirement. The increased payment shall continue during the remainder of the
6 member's lifetime. If the member reverts to a straight life annuity pursuant
7 to this paragraph, the member may again elect a period certain and life
8 annuity subject to the same provisions of the period certain and life annuity
9 previously elected by the member.

10 3. Beginning on July 1, 2002, a lump sum payment equal to not more
11 than thirty-six months of the member's retirement benefits under the benefit
12 option elected by the member. The member's benefit shall be actuarially
13 reduced to provide for the lump sum payment. The lump sum payment shall be
14 made at the time of retirement. Any benefit increase granted to a member who
15 elects a lump sum payment pursuant to this paragraph is subject to the
16 following conditions:

17 (a) If the benefit increase is a percentage increase of the member's
18 retirement benefit, the increase shall be based on the actuarially reduced
19 retirement benefit of the member.

20 (b) If the benefit increase is pursuant to section 38-767, the amount
21 of the member's benefit increase shall be calculated without regard to the
22 lump sum payment pursuant to this paragraph.

23 4. Other forms of actuarially reduced optional benefits prescribed by
24 the board.

25 Sec. 4. Section 38-762, Arizona Revised Statutes, is amended to read:
26 38-762. Survivor benefits before retirement; definition

27 A. On the termination of employment by death of any active or inactive
28 member before retirement, the designated beneficiary of the member shall be
29 paid a survivor benefit equal to the sum of both of the following:

30 1. Two times the member's contribution and interest to the defined
31 benefit plan established by this article for credited service that a member
32 earned by working for an employer, plus all contributions and interest made
33 for the purchase of military service, leave without pay or other public
34 service credit.

35 2. The amount of the member's employee account and the member's
36 employer account together with supplemental credits, if any, transferred from
37 the defined contribution program administered by ASRS to the defined benefit
38 program established by this article.

39 B. Subsection A, paragraphs 1 and 2 OF THIS SECTION shall be
40 accumulated at compound interest at ~~the valuation rate established~~ A RATE
41 DETERMINED by the board through the day of the payment of the benefit.

42 C. In lieu of a single payment, a designated beneficiary who is
43 eligible for a survivor benefit pursuant to subsection A OF THIS SECTION of
44 more than five thousand dollars may elect to receive the actuarial equivalent
45 of the survivor benefit pursuant to one of the following options:

1 1. A monthly income for five, ten or fifteen years certain and for
2 life thereafter.

3 2. Another form of optional benefits approved by the board.

4 D. On the death of an active or inactive member who has reached an
5 early retirement date applicable to the member or who has a minimum of
6 fifteen years of credited service and whose designated beneficiary is a
7 spouse, child under the age of twenty-one or handicapped child age twenty-one
8 or older, including a legally adopted child or a stepchild, ASRS shall pay
9 the designated beneficiary a survivor benefit equal to the present value, on
10 the date following the date of the member's death, of the life annuity that
11 would have been payable to the designated beneficiary if the member had
12 retired on the date of the member's death and elected to receive an annuity
13 in the form of a joint and survivor annuity providing the same amount of
14 annuity to the surviving beneficiary as the reduced amount that would have
15 been payable during the lifetime of the member. If there is more than one
16 designated beneficiary under this subsection, ASRS shall determine the amount
17 of the annuity and its present value as if the oldest of the beneficiaries
18 was the sole beneficiary. Payment under this subsection shall be in lieu of,
19 but not less than, any payment under subsection A **OF THIS SECTION**. Payment
20 under this subsection, at the election of the designated beneficiary, may be
21 made in a single sum or may be made in accordance with subsection C **OF THIS**
22 **SECTION**. A beneficiary may not elect this option unless a benefit of
23 twenty-five dollars or more per month is payable to the designated
24 beneficiary or the designated beneficiary's estate.

25 E. If a member dies before distribution of the member's benefits
26 commences, the member's entire benefits shall be distributed ~~no later than~~
27 ~~five years after the member's death, except to the extent that, if any~~
28 ~~portion of the member's interest is payable to a designated beneficiary,~~
29 ~~distributions may be made in substantially equal installments over the life~~
30 ~~expectancy of the designated beneficiary or over a period not extending~~
31 ~~beyond the life expectancy of the beneficiary commencing no later than one~~
32 ~~year after the member's death~~ **WITHIN THE REQUIRED DISTRIBUTION PROVISIONS OF**
33 **SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE**
34 **ISSUED UNDER THAT SECTION BY THE UNITED STATES SECRETARY OF THE TREASURY AS**
35 **PRESCRIBED IN SECTION 38-775.**

36 F. If a deceased member did not designate a beneficiary or the
37 beneficiary named by a member predeceases the member, ASRS shall pay the
38 member's survivor benefit to the following persons in the following order of
39 priority:

- 40 1. The member's surviving spouse.
41 2. The member's surviving children, including adopted children, in
42 equal shares.
43 3. The member's surviving parents in equal shares.
44 4. The member's estate.

1 G. Any payment pursuant to this section is payment for the account of
2 the member or the member's beneficiary and all persons entitled to payment
3 and, to the extent of the payment, is a full and complete discharge of all
4 liability of the board or ASRS, or both, under or in connection with ASRS.

5 H. For THE purposes of this section, "designated beneficiary" means
6 any individual designated by the member as the member's beneficiary.

7 Sec. 5. Section 38-763, Arizona Revised Statutes, is amended to read:

8 38-763. Survivor benefits after retirement

9 A. Except as provided in subsection B OF THIS SECTION, if a member
10 dies after distribution of retirement benefits commences, ASRS shall continue
11 to distribute the remaining portion of retirement benefits ~~at least as~~
12 ~~rapidly as under the method of distribution used before the retired member's~~
13 ~~death~~ WITHIN THE REQUIRED DISTRIBUTION PROVISIONS OF SECTION 401(a)(9) OF THE
14 INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION
15 BY THE UNITED STATES SECRETARY OF THE TREASURY AS PRESCRIBED IN SECTION
16 38-775.

17 B. On the death of a retired member who is receiving benefits, the
18 estate or beneficiary of the member is entitled to receive at least the
19 amount of the member's contribution to ASRS plus interest, as determined by
20 the director, less the benefits received by the member. This amount is
21 payable either as a lump sum or at the same periodic rate in effect at the
22 time of the member's death, as determined by the estate or beneficiary.

23 Sec. 6. Section 38-764, Arizona Revised Statutes, is amended to read:

24 38-764. Commencement of retirement; payment of retirement
25 benefits; lump sum payments

26 A. Retirement is deemed to commence on a date elected by the member.
27 That date shall not be earlier than the day following the date of termination
28 of employment, the date ASRS receives the member's completed retirement
29 application or the date specified by the member pursuant to subsection ~~I~~ I
30 of this section.

31 B. Except as provided in subsection C of this section, all retirement
32 benefits:

33 1. Are normally payable in monthly installments beginning on the
34 commencement of retirement as prescribed in subsection A of this section.

35 2. Continue to and include the first day of the month in which death
36 occurs or continue until the date of their cessation in accordance with any
37 optional method of payment that may have been elected.

38 C. In the case of incapacity of a retired member or contingent
39 annuitant, or in the case of any other emergency, as determined by the board,
40 the board may make the payment to or on behalf of the retired member or
41 contingent annuitant or to another person or persons the board determines to
42 be lawfully entitled to receive payment. The payment is payment for the
43 account of the retired member or contingent annuitant and all persons
44 entitled to payment and, to the extent of the payment, is a full and complete

1 discharge of all liability of the board or ASRS, or both, under or in
2 connection with ASRS.

3 D. Except as provided in subsection E of this section, at the request
4 of a retired member, a retired member's guardian or a court appointed
5 conservator, the board may pay any increase in retirement benefits or the
6 entire retirement benefit in a lump sum payment based on the actuarial
7 present value of the benefit or the increase in the benefit if the payment of
8 the benefits would result in ineligibility, reduction or elimination of
9 social service programs provided to the member by this state, its political
10 subdivisions or the federal government.

11 E. The board may pay the entire retirement benefit in a lump sum
12 pursuant to subsection D of this section only if continued membership in ASRS
13 will result in additional requests for lump sum payments based on cost of
14 living adjustments or the establishment of minimum benefit awards.

15 F. If any benefit that is payable as a series of periodic payments
16 amounts to less than twenty dollars per month, the board, in its sole
17 discretion and based on uniform rules it establishes, may order the amount to
18 be paid quarterly, semiannually, annually or in a lump sum. A member who
19 receives a lump sum payment pursuant to this subsection remains a member of
20 ASRS.

21 G. All distributions of retirement benefits to a member shall be
22 distributed ~~either:~~

23 ~~1. Over a period not exceeding the life of the member or over the~~
24 ~~lives of the member and the member's contingent annuitant.~~

25 ~~2. Over a period not extending beyond the life expectancy of the~~
26 ~~member or the life expectancy of the member and the member's contingent~~
27 ~~annuitant~~ WITHIN THE REQUIRED DISTRIBUTION PROVISIONS OF SECTION 401(a)(9) OF
28 THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT
29 SECTION BY THE UNITED STATES SECRETARY OF THE TREASURY AS PRESCRIBED IN
30 SECTION 38-775.

31 H. A member may elect to cancel the effective date of retirement
32 within thirty days of retirement or before the member's receipt of retirement
33 benefits, whichever is later.

34 ~~I. Notwithstanding any other provision of this article, all~~
35 ~~distributions under this article shall be made in accordance with the~~
36 ~~distribution requirements of section 401(a)(9) of the internal revenue code.~~

37 ~~J.~~ I. A member who attains a normal retirement date may retire at any
38 time without terminating employment if the member is employed for less than
39 the hours required for active membership pursuant to section 38-711,
40 paragraph 23, subdivision (b).

41 Sec. 7. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
42 amended by adding section 38-775, to read:

43 38-775. Required distributions; definitions

44 A. THIS SECTION APPLIES FOR PURPOSES OF DETERMINING REQUIRED MINIMUM
45 DISTRIBUTIONS FOR CALENDAR YEARS BEGINNING ON AND AFTER JANUARY 1, 2006. IN

1 APPLYING THE REQUIREMENTS OF THIS SECTION, THE FOLLOWING OPERATIONAL
2 PROVISIONS GOVERN:

3 1. EXCEPT AS PROVIDED IN THE FOLLOWING SENTENCE, THE REQUIREMENTS OF
4 THIS SECTION TAKE PRECEDENCE OVER ANY INCONSISTENT PROVISIONS OF THIS
5 ARTICLE. THE RULES OF THIS SECTION SHALL NOT RESTRICT ANY FORM, CALCULATION,
6 ADJUSTMENT OR PAYMENT OF BENEFIT PROVIDED UNDER THIS ARTICLE IN EFFECT ON
7 APRIL 17, 2002, IF THE FORM, CALCULATION, ADJUSTMENT OR PAYMENT OF BENEFIT
8 SATISFIED SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE BASED ON A
9 REASONABLE AND GOOD FAITH INTERPRETATION OF THAT SECTION.

10 2. ALL DISTRIBUTIONS REQUIRED UNDER THIS SECTION SHALL BE DETERMINED
11 AND MADE PURSUANT TO SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE AND THE
12 REGULATIONS THAT ARE ISSUED UNDER THAT SECTION BY THE UNITED STATES SECRETARY
13 OF THE TREASURY.

14 3. NOTWITHSTANDING THIS SECTION, OTHER THAN PARAGRAPH 2 OF THIS
15 SUBSECTION, DISTRIBUTIONS MAY BE MADE UNDER A DESIGNATION MADE BEFORE JANUARY
16 1, 1984, PURSUANT TO SECTION 242(b)(2) OF THE TAX EQUITY AND FISCAL
17 RESPONSIBILITY ACT OF 1982 (P.L. 97-248) AND THE PROVISIONS OF THIS ARTICLE
18 THAT RELATE TO THAT SECTION.

19 B. THE MEMBER'S ENTIRE INTEREST SHALL BE DISTRIBUTED, OR BEGIN TO BE
20 DISTRIBUTED, TO THE MEMBER NO LATER THAN THE MEMBER'S REQUIRED BEGINNING
21 DATE.

22 C. IF THE MEMBER DIES BEFORE DISTRIBUTIONS BEGIN, THE MEMBER'S ENTIRE
23 INTEREST SHALL BE DISTRIBUTED, OR BEGIN TO BE DISTRIBUTED, NO LATER THAN AS
24 FOLLOWS:

25 1. IF THE MEMBER'S SURVIVING SPOUSE IS THE MEMBER'S SOLE DESIGNATED
26 BENEFICIARY, EXCEPT AS PROVIDED IN PARAGRAPH 6 OF THIS SUBSECTION,
27 DISTRIBUTIONS TO THE SURVIVING SPOUSE SHALL BEGIN BY DECEMBER 31 OF THE
28 CALENDAR YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER
29 DIED, OR BY DECEMBER 31 OF THE CALENDAR YEAR IN WHICH THE MEMBER WOULD HAVE
30 ATTAINED SEVENTY AND ONE-HALF YEARS OF AGE, IF LATER.

31 2. IF THE MEMBER'S SURVIVING SPOUSE IS NOT THE MEMBER'S SOLE
32 DESIGNATED BENEFICIARY, EXCEPT AS PROVIDED IN PARAGRAPH 6 OF THIS SUBSECTION,
33 DISTRIBUTIONS TO THE DESIGNATED BENEFICIARY SHALL BEGIN BY DECEMBER 31 OF THE
34 CALENDAR YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR IN WHICH THE MEMBER
35 DIED.

36 3. IF THERE IS NO DESIGNATED BENEFICIARY AS OF SEPTEMBER 30 OF THE
37 YEAR FOLLOWING THE YEAR OF THE MEMBER'S DEATH, THE MEMBER'S ENTIRE INTEREST
38 SHALL BE DISTRIBUTED BY DECEMBER 31 OF THE CALENDAR YEAR CONTAINING THE FIFTH
39 ANNIVERSARY OF THE MEMBER'S DEATH.

40 4. IF THE MEMBER'S SURVIVING SPOUSE IS THE MEMBER'S SOLE DESIGNATED
41 BENEFICIARY AND THE SURVIVING SPOUSE DIES AFTER THE MEMBER BUT BEFORE
42 DISTRIBUTIONS TO THE SURVIVING SPOUSE BEGIN, THIS SUBSECTION, OTHER THAN
43 PARAGRAPH 1 OF THIS SUBSECTION, APPLIES AS IF THE SURVIVING SPOUSE WERE THE
44 MEMBER.

1 5. FOR PURPOSES OF THIS SUBSECTION AND SUBSECTION G, DISTRIBUTIONS ARE
2 CONSIDERED TO BEGIN ON THE MEMBER'S REQUIRED BEGINNING DATE OR, IF PARAGRAPH
3 4 OF THIS SUBSECTION APPLIES, THE DATE DISTRIBUTIONS ARE REQUIRED TO BEGIN TO
4 THE SURVIVING SPOUSE UNDER PARAGRAPH 1 OF THIS SUBSECTION. IF ANNUITY
5 PAYMENTS IRREVOCABLY COMMENCE TO THE MEMBER BEFORE THE MEMBER'S REQUIRED
6 BEGINNING DATE, OR TO THE MEMBER'S SURVIVING SPOUSE BEFORE THE DATE
7 DISTRIBUTIONS ARE REQUIRED TO BEGIN TO THE SURVIVING SPOUSE UNDER PARAGRAPH 1
8 OF THIS SUBSECTION, THE DATE DISTRIBUTIONS ARE CONSIDERED TO BEGIN IS THE
9 DATE DISTRIBUTIONS ACTUALLY COMMENCE.

10 6. IF THE MEMBER DIES BEFORE DISTRIBUTIONS BEGIN AND THERE IS A
11 DESIGNATED BENEFICIARY, DISTRIBUTION TO THE DESIGNATED BENEFICIARY IS NOT
12 REQUIRED TO BEGIN BY THE DATE PRESCRIBED IN PARAGRAPH 1 OR 2 OF THIS
13 SUBSECTION AS LONG AS THE MEMBER'S ENTIRE INTEREST WILL BE DISTRIBUTED TO THE
14 DESIGNATED BENEFICIARY BY DECEMBER 31 OF THE CALENDAR YEAR CONTAINING THE
15 FIFTH ANNIVERSARY OF THE MEMBER'S DEATH. IF THE MEMBER'S SURVIVING SPOUSE IS
16 THE MEMBER'S SOLE DESIGNATED BENEFICIARY AND THE SURVIVING SPOUSE DIES AFTER
17 THE MEMBER BUT BEFORE DISTRIBUTIONS TO EITHER THE MEMBER OR THE SURVIVING
18 SPOUSE BEGIN, THIS PARAGRAPH APPLIES AS IF THE SURVIVING SPOUSE WERE THE
19 MEMBER.

20 D. UNLESS THE MEMBER'S INTEREST IS DISTRIBUTED IN THE FORM OF AN
21 ANNUITY PURCHASED FROM AN INSURANCE COMPANY OR IN A SINGLE SUM ON OR BEFORE
22 THE REQUIRED BEGINNING DATE, AS OF THE FIRST DISTRIBUTION, CALENDAR YEAR
23 DISTRIBUTIONS SHALL BE MADE PURSUANT TO SUBSECTIONS E, F AND G. IF THE
24 MEMBER'S INTEREST IS DISTRIBUTED IN THE FORM OF AN ANNUITY PURCHASED FROM AN
25 INSURANCE COMPANY, DISTRIBUTIONS SHALL BE MADE PURSUANT TO THE REQUIREMENTS
26 OF SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT
27 ARE ISSUED UNDER THAT SECTION BY THE UNITED STATES SECRETARY OF THE TREASURY.
28 ANY PART OF THE MEMBER'S INTEREST THAT IS IN THE FORM OF AN INDIVIDUAL
29 ACCOUNT DESCRIBED IN SECTION 414(k) OF THE INTERNAL REVENUE CODE SHALL BE
30 DISTRIBUTED IN A MANNER SATISFYING THE REQUIREMENTS OF SECTION 401(a)(9) OF
31 THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT
32 SECTION BY THE UNITED STATES SECRETARY OF THE TREASURY THAT APPLY TO
33 INDIVIDUAL ACCOUNTS.

34 E. THE FOLLOWING PROVISIONS GOVERN THE DETERMINATION OF THE AMOUNT TO
35 BE DISTRIBUTED EACH CALENDAR YEAR:

36 1. IF THE MEMBER'S INTEREST IS PAID IN THE FORM OF ANNUITY
37 DISTRIBUTIONS, PAYMENTS UNDER THE ANNUITY SHALL SATISFY THE FOLLOWING
38 REQUIREMENTS:

39 (a) THE ANNUITY DISTRIBUTIONS SHALL BE PAID IN PERIODIC PAYMENTS MADE
40 AT INTERVALS NOT LONGER THAN ONE YEAR.

41 (b) THE DISTRIBUTION PERIOD SHALL BE OVER A LIFE OR LIVES OR OVER A
42 PERIOD CERTAIN NOT LONGER THAN THE PERIOD DESCRIBED IN SUBSECTION F OR G.

43 (c) ONCE PAYMENTS HAVE BEGUN OVER A PERIOD CERTAIN, THE PERIOD CERTAIN
44 SHALL NOT BE CHANGED EVEN IF THE PERIOD CERTAIN IS SHORTER THAN THE MAXIMUM
45 PERMITTED.

1 (d) PAYMENTS SHALL EITHER BE NONINCREASING OR INCREASE ONLY AS
2 FOLLOWS:

3 (i) BY AN ANNUAL PERCENTAGE INCREASE THAT DOES NOT EXCEED THE ANNUAL
4 PERCENTAGE INCREASE IN A COST-OF-LIVING INDEX THAT IS BASED ON PRICES OF ALL
5 ITEMS AND ISSUED BY THE BUREAU OF LABOR STATISTICS.

6 (ii) TO THE EXTENT OF THE REDUCTION IN THE AMOUNT OF THE MEMBER'S
7 PAYMENTS TO PROVIDE FOR A SURVIVOR BENEFIT ON DEATH, BUT ONLY IF THE
8 BENEFICIARY WHOSE LIFE WAS BEING USED TO DETERMINE THE DISTRIBUTION PERIOD
9 DESCRIBED IN SUBSECTION F DIES OR IS NO LONGER THE MEMBER'S BENEFICIARY
10 PURSUANT TO A QUALIFIED DOMESTIC RELATIONS ORDER WITHIN THE MEANING OF
11 SECTION 414(p) OF THE INTERNAL REVENUE CODE.

12 (iii) TO PROVIDE CASH REFUNDS OF EMPLOYEE CONTRIBUTIONS ON THE
13 MEMBER'S DEATH.

14 (iv) TO PAY INCREASED BENEFITS THAT RESULT FROM A PLAN AMENDMENT.

15 2. THE AMOUNT THAT MUST BE DISTRIBUTED ON OR BEFORE THE MEMBER'S
16 REQUIRED BEGINNING DATE OR, IF THE MEMBER DIES BEFORE DISTRIBUTIONS BEGIN,
17 THE DATE DISTRIBUTIONS ARE REQUIRED TO BEGIN UNDER SUBSECTION C, PARAGRAPH 1
18 OR 2, IS THE PAYMENT THAT IS REQUIRED FOR ONE PAYMENT INTERVAL. THE SECOND
19 PAYMENT NEED NOT BE MADE UNTIL THE END OF THE NEXT PAYMENT INTERVAL EVEN IF
20 THAT PAYMENT INTERVAL ENDS IN THE NEXT CALENDAR YEAR. PAYMENT INTERVALS ARE
21 THE PERIODS FOR WHICH PAYMENTS ARE RECEIVED, SUCH AS BIMONTHLY, MONTHLY,
22 SEMIANNUALLY OR ANNUALLY. ALL OF THE MEMBER'S BENEFIT ACCRUALS AS OF THE
23 LAST DAY OF THE FIRST DISTRIBUTION CALENDAR YEAR SHALL BE INCLUDED IN THE
24 CALCULATION OF THE AMOUNT OF THE ANNUITY PAYMENTS FOR PAYMENT INTERVALS
25 ENDING ON OR AFTER THE MEMBER'S REQUIRED BEGINNING DATE.

26 3. ANY ADDITIONAL BENEFITS ACCRUING TO THE MEMBER IN A CALENDAR YEAR
27 AFTER THE FIRST DISTRIBUTION CALENDAR YEAR SHALL BE DISTRIBUTED BEGINNING
28 WITH THE FIRST PAYMENT INTERVAL ENDING IN THE CALENDAR YEAR IMMEDIATELY
29 FOLLOWING THE CALENDAR YEAR IN WHICH THE AMOUNT ACCRUES.

30 F. THE FOLLOWING PROVISIONS GOVERN ANNUITY DISTRIBUTIONS THAT COMMENCE
31 DURING A MEMBER'S LIFETIME:

32 1. IF THE MEMBER'S INTEREST IS BEING DISTRIBUTED IN THE FORM OF A
33 JOINT AND SURVIVOR ANNUITY FOR THE JOINT LIVES OF THE MEMBER AND A NONSPOUSE
34 BENEFICIARY, ANNUITY PAYMENTS TO BE MADE ON OR AFTER THE MEMBER'S REQUIRED
35 BEGINNING DATE TO THE DESIGNATED BENEFICIARY AFTER THE MEMBER'S DEATH MUST
36 NOT AT ANY TIME EXCEED THE APPLICABLE PERCENTAGE OF THE ANNUITY PAYMENT FOR
37 THE PERIOD THAT WOULD HAVE BEEN PAYABLE TO THE MEMBER USING THE TABLE SET
38 FORTH IN QUESTION AND ANSWER NUMBER 2 OF SECTION 1.401(a)(9)-6 OF THE
39 REGULATIONS ISSUED BY THE UNITED STATES SECRETARY OF THE TREASURY. IF THE
40 FORM OF DISTRIBUTION COMBINES A JOINT AND SURVIVOR ANNUITY FOR THE JOINT
41 LIVES OF THE MEMBER AND A NONSPOUSE BENEFICIARY AND A PERIOD CERTAIN ANNUITY,
42 THE REQUIREMENT IN THE PRECEDING SENTENCE APPLIES TO ANNUITY PAYMENTS TO BE
43 MADE TO THE DESIGNATED BENEFICIARY AFTER THE EXPIRATION OF THE PERIOD
44 CERTAIN.

1 2. UNLESS THE MEMBER'S SPOUSE IS THE SOLE DESIGNATED BENEFICIARY AND
2 THE FORM OF DISTRIBUTION IS A PERIOD CERTAIN AND NO LIFE ANNUITY, THE PERIOD
3 CERTAIN FOR AN ANNUITY DISTRIBUTION COMMENCING DURING THE MEMBER'S LIFETIME
4 MAY NOT EXCEED THE APPLICABLE DISTRIBUTION PERIOD FOR THE MEMBER UNDER THE
5 UNIFORM LIFETIME TABLE PRESCRIBED IN SECTION 1.401(a)(9)-9 OF THE REGULATIONS
6 ISSUED BY THE UNITED STATES SECRETARY OF THE TREASURY FOR THE CALENDAR YEAR
7 THAT CONTAINS THE ANNUITY STARTING DATE. IF THE ANNUITY STARTING DATE
8 PRECEDES THE YEAR IN WHICH THE MEMBER REACHES SEVENTY YEARS OF AGE, THE
9 APPLICABLE DISTRIBUTION PERIOD FOR THE MEMBER IS THE DISTRIBUTION PERIOD FOR
10 SEVENTY YEARS OF AGE UNDER THE UNIFORM LIFETIME TABLE SET FORTH IN SECTION
11 1.401(a)(9)-9 OF THE REGULATIONS ISSUED BY THE UNITED STATES SECRETARY OF THE
12 TREASURY PLUS THE EXCESS OF SEVENTY OVER THE AGE OF THE MEMBER AS OF THE
13 MEMBER'S BIRTHDAY IN THE YEAR THAT CONTAINS THE ANNUITY STARTING DATE. IF
14 THE MEMBER'S SPOUSE IS THE MEMBER'S SOLE DESIGNATED BENEFICIARY AND THE FORM
15 OF DISTRIBUTION IS A PERIOD CERTAIN AND NO LIFE ANNUITY, THE PERIOD CERTAIN
16 MAY NOT EXCEED THE LONGER OF THE MEMBER'S APPLICABLE DISTRIBUTION PERIOD, AS
17 DETERMINED UNDER THIS PARAGRAPH, OR THE JOINT LIFE AND LAST SURVIVOR
18 EXPECTANCY OF THE MEMBER AND THE MEMBER'S SPOUSE AS DETERMINED UNDER THE
19 JOINT AND LAST SURVIVOR TABLE PRESCRIBED IN SECTION 1.401(a)(9)-9 OF THE
20 REGULATIONS ISSUED BY THE UNITED STATES SECRETARY OF THE TREASURY, USING THE
21 MEMBER'S AND SPOUSE'S ATTAINED AGES AS OF THE MEMBER'S AND SPOUSE'S BIRTHDAYS
22 IN THE CALENDAR YEAR THAT CONTAINS THE ANNUITY STARTING DATE.

23 G. THE FOLLOWING PROVISIONS GOVERN MINIMUM DISTRIBUTIONS IF A MEMBER
24 DIES BEFORE THE DATE DISTRIBUTIONS BEGIN:

25 1. EXCEPT AS PROVIDED IN SUBSECTION C, PARAGRAPH 6, IF THE MEMBER DIES
26 BEFORE THE DATE DISTRIBUTION OF THE MEMBER'S INTEREST BEGINS AND THERE IS A
27 DESIGNATED BENEFICIARY, THE MEMBER'S ENTIRE INTEREST SHALL BE DISTRIBUTED,
28 BEGINNING NO LATER THAN THE TIME PRESCRIBED IN SUBSECTION C, PARAGRAPH 1 OR
29 2, OVER THE LIFE OF THE DESIGNATED BENEFICIARY OR OVER A PERIOD CERTAIN NOT
30 EXCEEDING EITHER OF THE FOLLOWING:

31 (a) UNLESS THE ANNUITY STARTING DATE IS BEFORE THE FIRST DISTRIBUTION
32 CALENDAR YEAR, THE LIFE EXPECTANCY OF THE DESIGNATED BENEFICIARY DETERMINED
33 USING THE BENEFICIARY'S AGE AS OF THE BENEFICIARY'S BIRTHDAY IN THE CALENDAR
34 YEAR IMMEDIATELY FOLLOWING THE CALENDAR YEAR OF THE MEMBER'S DEATH.

35 (b) IF THE ANNUITY STARTING DATE IS BEFORE THE FIRST DISTRIBUTION
36 CALENDAR YEAR, THE LIFE EXPECTANCY OF THE DESIGNATED BENEFICIARY DETERMINED
37 USING THE BENEFICIARY'S AGE AS OF THE BENEFICIARY'S BIRTHDAY IN THE CALENDAR
38 YEAR THAT CONTAINS THE ANNUITY STARTING DATE.

39 2. IF THE MEMBER DIES BEFORE THE DATE DISTRIBUTIONS BEGIN AND THERE IS
40 NO DESIGNATED BENEFICIARY AS OF SEPTEMBER 30 OF THE YEAR FOLLOWING THE YEAR
41 OF THE MEMBER'S DEATH, DISTRIBUTION OF THE MEMBER'S ENTIRE INTEREST SHALL BE
42 COMPLETED BY DECEMBER 31 OF THE CALENDAR YEAR CONTAINING THE FIFTH
43 ANNIVERSARY OF THE MEMBER'S DEATH.

1 3. IF THE MEMBER DIES BEFORE THE DATE DISTRIBUTION OF THE MEMBER'S
2 INTEREST BEGINS, THE MEMBER'S SURVIVING SPOUSE IS THE MEMBER'S SOLE
3 DESIGNATED BENEFICIARY AND THE SURVIVING SPOUSE DIES BEFORE DISTRIBUTIONS TO
4 THE SURVIVING SPOUSE BEGIN, THIS SUBSECTION APPLIES AS IF THE SURVIVING
5 SPOUSE WERE THE MEMBER, EXCEPT THAT THE TIME BY WHICH DISTRIBUTIONS MUST
6 BEGIN SHALL BE DETERMINED WITHOUT REGARD TO SUBSECTION C, PARAGRAPH 1.

7 H. FOR THE PURPOSES OF THIS SECTION:

8 1. "DESIGNATED BENEFICIARY" MEANS THE INDIVIDUAL WHO IS DESIGNATED AS
9 THE MEMBER'S BENEFICIARY TO RECEIVE BENEFITS UNDER THIS ARTICLE AND IS THE
10 DESIGNATED BENEFICIARY UNDER SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE
11 AND QUESTION AND ANSWER NUMBER 4 OF SECTION 1.401(a)(9)-1 OF THE REGULATIONS
12 ISSUED BY THE UNITED STATES SECRETARY OF THE TREASURY.

13 2. "DISTRIBUTION CALENDAR YEAR" MEANS A CALENDAR YEAR FOR WHICH A
14 MINIMUM DISTRIBUTION IS REQUIRED. FOR DISTRIBUTIONS BEGINNING BEFORE THE
15 MEMBER'S DEATH, THE FIRST DISTRIBUTION CALENDAR YEAR IS THE CALENDAR YEAR
16 IMMEDIATELY PRECEDING THE CALENDAR YEAR THAT CONTAINS THE MEMBER'S REQUIRED
17 BEGINNING DATE. FOR DISTRIBUTIONS BEGINNING AFTER THE MEMBER'S DEATH, THE
18 FIRST DISTRIBUTION CALENDAR YEAR IS THE CALENDAR YEAR IN WHICH DISTRIBUTIONS
19 ARE REQUIRED TO BEGIN PURSUANT TO SUBSECTION C.

20 3. "LIFE EXPECTANCY" MEANS LIFE EXPECTANCY AS COMPUTED BY USE OF THE
21 SINGLE LIFE TABLE IN SECTION 1.401(a)(9)-9 OF THE REGULATIONS ISSUED BY THE
22 UNITED STATES SECRETARY OF THE TREASURY.

23 4. "REQUIRED BEGINNING DATE" MEANS THE DATE PAYMENT OF A MEMBER'S
24 BENEFITS SHALL COMMENCE, WHICH SHALL NOT BE LATER THAN THE APRIL 1 FOLLOWING
25 THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF YEARS OF
26 AGE OR THE CALENDAR YEAR IN WHICH THE MEMBER TERMINATES EMPLOYMENT, WHICHEVER
27 OCCURS LATER.